IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 5460 of 2004

Between:

N.Yadagiri S/o.late Lingaiah
R/o.18-3-463/12, Amjad Dowla Village
Rajanna Bowli, Hyderabad.

..... PETITIONER

AND

1. The Commissioner of Police, Basheerbagh, Hyderabad
2. The Station HOuse Officer, P.S.Chatrinaka, Hyderabad.
3. Vijayakumar, Circle Inspector of Police, Chatrinaka Police

Station, Chatrinaka, Hyderabad.
4. B.R.Anjaneyulu S/o.late B.Ramulu
R/o.18-3-496/1, Aliabad, Rajanna Bowli Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ or writs order or direction declaring the action of the respondents 2 and 3 in interfering with the construction activity of the petitioner over the property bearing No.18-3-463/32, situated at Amjad Dowla Village, Rajanna Bowli, Hyderabad otherwise than by due process of law as illegal, arbitrary and unconstitutional.

Counsel for the Petitioner: MR.B.VIJAYSEN REDDY

Counsel for the Respondents 1 to 3: GP FOR HOME

Counsel for the Respondent No.4: Sri Vilas V.Afzulpurkar

The Court made the following:

ORDER:

The petitioner claims to be the owner of the property bearing No. 18.3.463/32 in an extent of 120 sq.yrds situated at Ajar Dowla Village, Rojanna Bowli, Hyderabad.

The petitioner asserts that he purchased the property under a notarized Agreement of Sale, dated 15.05.1998, from its owner Dr Chandra Mohan. The plots were stated to have been sold by the vendor under an approved lay out issued by the HUDA, vide permit No.6122/89, dated 16.03.1990. According to the petitioner, he is in possession and enjoyment of the property since the date and he could not get the regular Sale Deed and registration of the property, as registrations have not been entertained due to civil disputes pertaining to land in Survey No. 225. According to the petitioner, the 4th respondent (who is the General Power of Attorney holder of one Madhusudhan reddy and Jayraj Bhalerao who in turn have rival claims against the petitioner in respect of the land in question) is interfering with the petitioner's ownership in possession of the property. According to the petitioner, there are civil disputes between his vendor, Madhusudhan Reddy and Jairaj Bhalerao in connection with the land and civil cases are pending in various Courts. Petitioner alleges that the police at the instance of the 4th respondent are interfering with his possession and enjoyment.

On behalf of the official respondents, the second respondent has filed a counter affidavit stating that there are a number of disputes in respect of the property in Survey No. 225 and that these disputes have in turn led to breach of the peace and public tranquility and law and order problems. In the circumstances the counter affidavit states, the third respondent -the then Inspector of Police *suo motu* registered Crime No. 52 of 2003 under Section 107 Criminal Procedure Code against both the parties i.e. petitioners as well as the other contenders to the property and this issue is pending before the Executive Magistrate, Hyderabad. It is contended by the answering respondent that he had never interfered with the civil disputes at the instance of the unofficial respondent. All the other allegations in the Writ Petition have also been denied.

The very claim of the petitioner to the ownership of the property is on the basis of a notarized agreement of sale. In law, such an instrument confers no right or title on the petitioner. In the circumstances, he cannot claim any right to the said property. At any rate, the petitioner claims to be being the owner and possessor of the property could not be determined by this Court under Article 226 of the Constitution of India. The respondents 1 to 3 have categorically and unequivocally who denied the allegation of the petitioner that they are interfering with his possession and enjoyment of the property. The disputes that the petitioner has with the 4th respondent are more properly addressed before the Civil Court of competent jurisdiction or any other Forum having the jurisdiction and authority to adjudicate upon rival claims as to title and possession. The proceedings under Article 226 of the Constitution of India cannot be pursued as a vehicle for seeking a declaration of title or a finding on possession.

On the above analysis, there are no merits in the Writ Petition. Accordingly, the Writ Petition is dismissed. The interim order dated 16-09-2004 stands dissolved. No costs.

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21-02-2005

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To

1. The Commissioner of Police, Basheerbagh, Hyderabad
2. The Station HOuse Officer, P.S.Chatrinaka, Hyderabad.
3. The Circle Inspector of Police, Chatrinaka Police

Station, Chatrinaka, Hyderabad.
4. 2 CCs to GP for Home, High Court Buildings, Hyderabad (OUT)

5. 2 CD copies.